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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 OWEN DIAZ,
20 Plaintiff,
21 v.
22 TESLA, INC. DBA TESLA MOTORS, INC.,
23 Defendant.
24
25
26
27
28

Case No. 3:17-cv-06748-WHO

**DEFENDANT TESLA INC'S
OBJECTIONS TO PLAINTIFF'S
DESIGNATION OF DEPOSITION
TESTIMONY**

Trial Date: March 27, 2023
Complaint Filed: October 16, 2017

PLAINTIFF'S DESIGNATIONS OF DEPOSITION TESTIMONY

Defendant Tesla, Inc. ("Tesla") provides the following objections and counterdesignations to Plaintiff Owen Diaz's Designation of Deposition Testimony.

Di-Az, Demetric, 5/15/2018, Vol. I:

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
1.	10:4-22	<p>4 Q. Could you please state your full name for the</p> <p>5 record.</p> <p>6 A. Demetric Jean Di-az.</p> <p>7 Q. Did you say Jean?</p> <p>8 A. Yes. That's my middle name.</p> <p>9 Q. Okay. And how do you spell your last name?</p> <p>10 A. D-I hyphen A-Z.</p> <p>11 Q. And is your father's name Owen Diaz?</p> <p>12 A. Yes.</p> <p>13 Q. And he spells his name with a D-I-A-Z without a</p> <p>14 hyphen; right?</p> <p>15 A. Yes.</p> <p>16 Q. And why do you spell your name with a hyphen?</p> <p>17 A. As a kid it was given to me like that through</p> <p>18 birth. I really don't know why it was like that.</p> <p>19 Q. You don't have an understanding of why your last</p> <p>20 name is spelled with a hyphen?</p> <p>21 A. I was told that was the original spelling. That</p> <p>22 was it.</p>	
2.	31:20-22	<p>20 Q. How would you describe your relationship with</p> <p>21 your father?</p> <p>22 A. My relationship with my father was good.</p>	
3.	40:14-16	<p>14 Q. So you received a high school diploma from</p> <p>15 Pittsburg's adult school in June of 2014?</p> <p>16 A. Yes.</p>	<p>40:10-13</p> <p>10 Q. Take your time to read Exhibit 6. It's a</p> <p>11 document marked at the bottom as Tesla 156.</p> <p>12 Is this a copy of your resume?</p> <p>13 A. Yes.</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			40:23-41:3 23 Q. Did you submit this as part of your application 24 to work at West Valley in or around August of 2015? 25 A. Yes. 1 Q. Did you submit this as part of your application 2 to work at Tesla in or around August of 2015? 3 A. Yes.
4.	109:2-3	2 Q. How many days a week did you work? 3 A. Five.	
5.	159:24- 160:07	24 Q. And who stated this phrase? 25 A. Javier. I think his last name is Caballero. 1 You said his name. 2 Q. Javier Caballero said this, quote, "All you 3 fucking niggers -- I can't stand you motherfuckers"? 4 A. Yes. 5 Q. And in paragraph 19 you say that it was your 6 shift lead? 7 A. It's my shift supervisor.	
6.	160:15- 160:25	15 Q. And how many other people besides you and T.J. 16 were present? 17 A. Me, T.J., my father, and the rest of my team 18 that was getting ready to leave. 19 Q. It was directed at your whole team? 20 A. Yes. 21 Q. Sorry. Did you tell me how many people are on 22 your team? 23 A. I think I told you earlier. 24 Q. Can you tell me again? A. I think approximately about six.	
		1 Q. Any people on your team not African-American? 2 A. Yes. 3 Q. Who? 4 A. I think it was probably about, like,	161:9-10 9 Q. Is this the only time that this statement was 10 made?

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>three other 5 guys that weren't African-American. 6 Q. Any other people on your team African-American? 7 A. Me, T.J., and one other guy. I don't remember 8 his name.</p>	<p>11 A. That statement, yes.</p>
7.	162:2- 162:7	<p>2 A. From there I went to his immediate -- to 3 Javier's supervisor. They did nothing about it. And 4 then from there, I went to HR, and they did nothing 5 about it. 6 Q. Who in HR did you complain to? 7 A. I don't remember the lady's name.</p>	<p>72:10-18</p> <p>10 Q. Turning your attention to page 218, under 11 "Reporting Concerns." You understand that, if you 12 believe you were subjected to harassment or 13 discrimination of any kind or if you witness such 14 conduct, that you were required to immediately report 15 the facts of the conduct to your manager or an HR 16 representative so that your concern could be 17 investigated promptly and addressed appropriately? 18 A. Yes, I understand</p> <p>73:21-75:9</p> <p>21 Q. Did you understand that you could report it to 22 West Valley if you suffered harassment or discrimination 23 at Tesla? 24 A. Yes. Q. And who would you have reported it to if you 1 felt that you suffered harassment and discrimination at 2 Tesla? 3 A. I really don't know who you would report it to. 4 I went to talk to the people upstairs. That's it. They</p>

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2				5 didn't do anything about it,
3				and I'm still stuck with
4				6 the same situation.
5				7 Q. What was your
6				understanding of who you
7				should
8				8 report discrimination and
9				harassment to if you endured
10				9 it while you were working at
11				Tesla?
12				10 A. I really didn't have an
13				exact person to tell it
14				11 to. I tried to talk to the on-
15				site staff; they didn't
16				12 help. And it never went
17				further.
18				13 Q. Who of the on-site staff
19				or -- strike that.
20				14 When you say on-site staff,
21				are you referring to
22				15 West Valley's on-site staff
23				at Tesla?
24				16 A. Yes.
25				17 Q. Did you report it to the -
26				- did you report any
27				18 discrimination or
28				harassment to West Valley's
				on-site
				19 staff?
				20 A. I went up there and we
				talked, and he said he
				21 would look into it, and
				nothing ever happened.
				22 Q. Who did you report it
				to?
				23 A. If I'm not mistaken, I
				think his name is Samuel.
				24 I don't know his last name.
				25 Q. Samuel Zehner. Does
				Zehner sound right?
				1 A. I don't know his last
				name. I don't know.
				2 Q. Did you report any
				discrimination or harassment
				3 that you suffered at Tesla to
				anyone --

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2				4 A. I said --
3				5 Q. Hold on. Let me finish --
4				to anyone else
5				6 besides Samuel?
6				7 A. I talked to my mom and
7				my dad.
8				8 Q. But you didn't talk to
9				anybody else at Tesla
10				9 about any discrimination or
11				harassment?
12				75:11-17
13				11 THE WITNESS: Not that I
14				can recall at this
15				12 time.
16				13 BY MS. ANTONUCCI:
17				14 Q. You recall that you
18				didn't talk to anybody else
19				15 at West Valley about any
20				discrimination or harassment
21				16 that you suffered at Tesla?
22				17 A. No.
23				76:21-24
24				21 Q. You never spoke with
25				any human resources
26				22 representative at Tesla
27				about harassment or
28				23 discrimination?
				24 A. No.
				162:13-21
				13 Q. Did you ever put
				anything in writing?
				14 A. No.
				15 Q. You never complained
				in writing?
				16 A. No. I just went and
				verbally complained. It
				never went anywhere.
				18 Q. You never sent a text?
				19 A. No.
				20 Q. You never wrote an e-
				mail?

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			21 A. No.
8.	165:24 - 166:3	<p>24 Q. Do you know whether your father heard it?</p> <p>25 A. My father told me that he did hear it, and</p> <p>1 That's the first time I seen my father, like, really</p> <p>2 feel like he couldn't do anything for me. Like, he</p> <p>3 didn't know what to do.</p>	Objection: Hearsay; speculation

Heisen, Annalisa, 05/29/2019, Vol. I:

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
1.	8:10-12	<p>10 MR. ORGAN: Q. Good morning. Could you</p> <p>11 please state your full name for the record.</p> <p>12 A. Annalisa Heisen.</p>	
2.	8:15-19	<p>15 Q. Okay. And what's your--you currently work</p> <p>16 for Tesla; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. What's your current position there?</p> <p>19 A. I'm a senior employee relations partner.</p>	
3.	26:7- 27:3	<p>7 Q. Okay. And is it true that Tesla human</p> <p>8 resources will investigate any claim of discrimination</p> <p>9 or harassment that is brought to its attention</p> <p>10 relative to conduct at the factory?</p> <p>11 A. We have a standard that an investigation will</p> <p>12 be conducted. Whether a Tesla HR partner conducts</p> <p>13 that or otherwise, depends case to case.</p> <p>14 Q. What are the factors as to determining</p> <p>15 whether a Tesla HR partner will conduct the</p> <p>16 investigation or not?</p> <p>17 A. One factor would be who's involved, who</p> <p>18 complained.</p> <p>19 Q. And why does that matter?</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>20 A. We have different employment statuses for</p> <p>21 individuals on-site.</p> <p>22 Q. What are the different employment statuses</p> <p>23 for individuals who work at the Fremont factory?</p> <p>24 A. I don't have an exhaustive list of types of</p> <p>25 roles.</p> <p>1 Q. What are the ones you remember?</p> <p>2 A. General direct-hire employees, contractors,</p> <p>3 temporary employees.</p>	
4.	33:4-8	<p>4 Q. Well, you understand that you're testifying</p> <p>5 today as the person most knowledgeable on the policies</p> <p>6 and procedures related to race harassment in effect</p> <p>7 from 2014 to present; right? You understand that?</p> <p>8 A. Correct.</p>	
5.	53:4-13	<p>4 Q. In terms of "stupid stuff," that part of</p> <p>5 Exhibit 5, that applies to all employees, whether</p> <p>6 They're regular employees or contractors, right, at</p> <p>7 the Tesla factory?</p> <p>8 A. My understanding is that there's an</p> <p>9 expectation that both contractors and employees would</p> <p>10 adhere to it.</p> <p>11 Q. Would adhere to that part of the policy;</p> <p>12 correct?</p> <p>13 A. Correct.</p>	
6.	75:17-24	<p>17 MR ORGAN: Q. What steps does Tesla take to</p> <p>18 ensure that contractors who come into and work in the</p> <p>19 Tesla factory in Fremont have training relative to the</p> <p>20 topic of antiharassment and discrimination?</p> <p>21 A. We have an expectation that agencies</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		are 22 training on antiharassment and discrimination. 23 Q. And what is that expectation based on? 24 A. That they're legally compliant.	
7.	77:7-17	7 "QUESTION: And in terms of -- there are some 8 reporting and investigation procedures in Exhibit 150, 9 if you look down at the bottom of the page, and then 10 over to the second page of Exhibit 150. Those 11 reporting and/or investigation principles would still 12 apply to employees who are contractors working at the 13 Tesla factory; correct?") 14 THE WITNESS: I don't have visibility into 15 what the agencies advise their contractors, as far as 16 reporting is concerned. Those guidelines may be 17 different, agency to agency.	
8.	78:11- 15	11 Q. And so that employee of Tesla would have to 12 then take some action once they get information about 13 discrimination or harassment in the workplace; 14 correct? 15 A. That's the expectation.	78:1-10 1 Q. In terms of if a Tesla employee – let's say 2 a supervisor or a manager gets information from a 3 contract employee about harassment or discrimination, 4 Tesla's antiharassment and discrimination policy would 5 apply, in terms of reporting an investigation; 6 correct? 7 A. Correct. To that employee of Tesla who 8 received information? 9 Q. Yes. 10 A. Correct.
9.	79:7-15	7 Q. So if a Tesla employee gets information about	79:19-80:3

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>8 harassing conduct based on race in the factory, that's</p> <p>9 occurring in the factory, regardless of how they get</p> <p>10 that information, they then have a reporting duty, in</p> <p>11 terms of either providing that information to a</p> <p>12 higher-level manager or sending it to HR; is that</p> <p>13 true?</p> <p>14 A. There's an expectation of that, as it's</p> <p>15 articulated in the policy.</p>	<p>19 MR ORGAN: Exhibit 151, for the record, is a</p> <p>20 six-page document Bates-stamped Tesla 819 to 824.</p> <p>21 It's entitled "Policy Against Discrimination and</p> <p>22 Harassment in the Workplace, U.S. Locations."</p> <p>23 Q. Do you recognize Exhibit 151?</p> <p>24 A. I do.</p> <p>25 Q. And what is Exhibit 151?</p> <p>1 A. It's Tesla's policy against harassment and</p> <p>2 discrimination in the workplace, for the U.S.</p> <p>3 locations, that went into effect in July of 2018.</p>
10.	81:6-81:12	<p>6 Q. Any information relative to a complaint of</p> <p>7 harassment based on race at the Tesla factory, that's</p> <p>8 investigated by HR, Tesla's HR, if it's brought to</p> <p>9 Tesla HR attention; correct?</p> <p>10 A. It depends.</p> <p>11 Q. What does it depend on?</p> <p>20 A. Who's involved in the complaint.</p>	
11.	82:13-16	<p>13 Q. Tesla has an obligation to the people who</p> <p>14 work at the Fremont factory to ensure that they are in</p> <p>15 a workplace free from harassment based on race; right?</p> <p>21 A. Correct.</p>	
12.	82:21-25; 83:3-6	<p>21 Q. So in terms of ensuring that workers at the</p> <p>22 Tesla factory are not subject to harassment based on</p> <p>23 race, how does Tesla's HR department ensure that that</p> <p>24 is the case, if they are delegating investigation</p> <p>25 processes to non-Tesla employees?</p>	<p>85:10-25</p> <p>10 Q. How does Tesla ensure that Tesla employees</p> <p>11 working at the Tesla factory are protected against</p> <p>12 harassing conduct by contractors who are also working</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>3 THE WITNESS: There's still an expectation</p> <p>4 that these types of concerns that are brought forward</p> <p>5 will be investigated, but it depends case by case a</p> <p>6 to how that's approached.</p>	<p>13 at the Fremont factory?</p> <p>14 A. When the concern is brought about a</p> <p>15 contractor's behavior?</p> <p>16 Q. Yes.</p> <p>17 A. If we're informed and made aware of the</p> <p>18 issue -- depends on the specific circumstances -- we</p> <p>19 would either ourselves follow up and collaborating</p> <p>20 with them. There are circumstances that might fall</p> <p>21 outside of that. It depends, but that's one way.</p> <p>22 Q. Certainly, if harassing conduct were being</p> <p>23 done by any of Tesla's supervisors against a contract</p> <p>24 employee, Tesla would be responsible for doing any</p> <p>25 such investigation; correct?</p> <p>86:3-11</p> <p>3 THE WITNESS: Generally in that case, Tesla</p> <p>4 would always contact the agency of the person who was</p> <p>5 a contractor who was involved. And Tesla may take the</p> <p>6 lead on that, in that case.</p> <p>7 MR ORGAN: Q. And what about in the</p> <p>8 situation where the -- assume that the harasser is a</p> <p>9 supervisor working for a contract agency, harassing</p> <p>10 another contract employee at the Tesla factory.</p> <p>11 What's Tesla's role relative to that?</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			86:14-20 14 THE WITNESS: So effectively, if both parties 15 are contractors, if they're either from the same 16 agency or separate agencies, whichever agency 17 representative would need to be looped in, you know, 18 during that process, Tesla would contact them, and 19 they would collaborate with them to determine what 20 next steps needed to be taken for investigation.
13.	83:19-21; 83:24-25	19 Q. There are no written procedures that Tesla 20 has for coordinating investigations of allegations of 21 harassment based on race? 24 THE WITNESS: Not that outline step by step 25 for each of these cases.	
14.	83:11-18	11 Q. In terms of Tesla's efforts to ensure that it 12 has a workplace free from harassment based on race, 13 are there any kind of procedures that Tesla has 14 adopted for coordinating investigations into 15 allegations of harassment based on race? 16 A. It depends on the case. It varies widely. 17 There's not one fixed method that we address that 18 with.	

Marconi, Erin 10/21/2019, Vol. I:

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
1.	13:17-13:24	17 What did you do after you left Volt as a 18 program manager? 19 A I went to Tesla as an HR business	13:25-14:5 25 Q And what was your job title after you – after

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		partner. 20 Q So that would be approximately 2013? 21 A Correct. 22 Q How long were you an HR business partner at 23 Tesla? A Until January 2017.	1 January 2017? 2 A I took a time off work. I had been a 3 caregiver for my mother. 4 Q And have you worked at Tesla since that time? 5 A No.
2.	14:09-14:21	9 Q Okay. What were the job duties of an HR 10 business partner in your role? 11 A Strategic partner with the business management 12 teams from work planning, succession planning. Time to 13 time would help out if recruiting was needed, but that 14 wasn't primary. 15 A lot of HR generalist at the beginning. That 16 went away as we grew. Employee relations, 17 investigations, performance management. Employee 18 engagement. 19 Q It sounds like -- 20 A Probably about covers it. A little bit of 21 everything.	
3.	15:03-15:05	3 Q Okay. So investigations were part of your job 4 as an HR business partner; is that right? 5 A Correct.	
4.	27:12-27:15	12 Q But the HR business partner team that you were 13 part of was in charge of handling, among other things, 14 complaints about discrimination or harassment; right? 15 A Correct.	27:2-11 2 Q But you mentioned earlier that there were HR 3 teams. 4 A There was an HR business partner team. There 5 were also some employee relations people that supported 6 us. They did a lot of administrative for the most part. 7 Then there was a totally different group in HR

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2				8 that did onboarding, offboarding. I can't recall what
3				9 the name of that group was.
4				10 There was recruiting. There
5				was just various
6				11 different areas.
7				27:16-24
8				16 Q And approximately
9				how many members were
10				there
11				17 in that HR business
12				partner team that handled
13				18 discrimination and
14				harassment complaints in
15				that 2015,
16				19 '16 time period?
17				20 A At least ten, to the best
18				of my recollection.
19				21 That was a long time ago,
20				though.
21				22 Q Okay.
22				23 A Oh, 11. Sorry. I haven't
23				thought about that
24				24 in a long time.
25				32:11-25
26				11 Q How many employees
27				worked in the Fremont
28				12 factory in the area for
				which you provided HR
				functions
				13 in 2015 and '16?
				14 A I was switched around
				various different
				15 groups, so at any -- it
				depends on when in 2015 and
				when
				16 in 2016.
				17 Q Okay.
				18 A It could have been a
				group of 50 people; it
				19 could have been over 1200.
				20 Q At one point, though,
				that you were handling

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			21 human resources 22 functions for up to 1200 23 people at 24 the -- 25 A With assistance. 26 Q With assistance, at the 27 Fremont factory? 28 A Correct.
5.	33:17- 33:20	17 Q Okay. But it's fair to say that you at 18 least 19 understood what Tesla's policies were in 20 terms of 21 anti-discrimination and anti-harassment; 22 right? 23 A Correct	
6.	35:02- 35:07	2 Q So with that understanding of the 3 definition 4 of n- -- of the n-word, is it your 5 understanding that 6 Tesla's anti-harassment and anti- 7 discrimination 8 zero-tolerance policies prohibit use of the 9 n-word at 10 the Tesla facility? 11 A Yes.	
7.	36:05- 36:13	5 Q Okay. And if you had known about 6 someone 7 using the n-word at the Tesla factory, that 8 would 9 certainly be something that you would 10 investigate; 11 correct? 12 A Absolutely. 13 Q And the reason that you would 14 investigate that 15 is use of the n-word at the Tesla factory 16 could create a 17 hostile work environment for other 18 workers; right? 19 A Correct.	37:4-6 4 Do you recall ever 5 investigating a claim where 6 it was alleged that the n- 7 word was used? 8 A Not specifically.
8.	39:02- 39:08	2 Q Was there ever any kind of meeting 3 among HR 4 professionals about, like, sensitivity 5 training or how 6 to address a situation where the n-word 7 was being used	40:10-20 10 Did you work with your 11 business partners to

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>5 in the workplace?</p> <p>6 A Specifically regarding the n-word?</p> <p>7 Q Yeah.</p> <p>8 A No.</p>	<p>11 enforce the anti-</p> <p>discrimination and anti-</p> <p>harassment</p> <p>12 policies?</p> <p>13 A Yes, as needed.</p> <p>14 Q What kind of training</p> <p>was there for issues</p> <p>15 such as harassment at the</p> <p>Tesla factory?</p> <p>16 A There was annual</p> <p>training. There was</p> <p>17 supervisor training that was</p> <p>developed, I don't know</p> <p>18 when, but I think it would</p> <p>have been there by then. And</p> <p>19 that would have been</p> <p>anything -- anyone supervisor</p> <p>or</p> <p>20 above.</p> <p>41:16-42:20</p> <p>Q So if a -- just so I'm clear,</p> <p>the leadership</p> <p>17 training would be done</p> <p>for anybody who was a</p> <p>supervisor</p> <p>18 or above that level;</p> <p>correct?</p> <p>19 A Correct.</p> <p>20 Q So anybody who's a</p> <p>supervisor or a manager or</p> <p>21 a director would get the</p> <p>leadership training; is that</p> <p>22 true? Or should get it?</p> <p>23 A If they started once that</p> <p>training had</p> <p>24 started, because that was a -</p> <p>- do this at the beginning,</p> <p>25 because just as a group, we</p> <p>were growing and there were</p> <p>1 people being promoted, and</p> <p>so we were doing a lot of</p> <p>2 one-off trainings.</p> <p>3 Q Okay. And then in terms</p> <p>of the leadership</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			<p>4 training, the leadership training included things --</p> <p>5 included topics such as anti-discrimination,</p> <p>6 anti-harassment, that kind of stuff?</p> <p>7 A It touched on it. I believe that was in</p> <p>8 orientation for every employee. It would have been Beth</p> <p>9 Davies again.</p> <p>10 Q So every employee was taught when they started</p> <p>11 about the anti-discrimination, anti-harassment policies?</p> <p>12 A Yes.</p> <p>13 Q And the leadership were taught that if they</p> <p>14 received a complaint of harassment or</p> <p>15 discrimination,</p> <p>16 they should at least inform HR that they</p> <p>17 received such a</p> <p>18 complaint; is that true?</p> <p>19 A When they were doing the leadership training</p> <p>20 as part of onboarding, we added it to the regular</p> <p>21 orientation at a certain point. I don't recall what the</p> <p>22 time was.</p>
9.	42:21-43:05	<p>21 Q Okay. But under Tesla's guidelines or</p> <p>22 policies for anti-harassment complaints,</p> <p>23 if a member of</p> <p>24 the leadership team, supervisor,</p> <p>25 manager, director,</p> <p>26 received a complaint of harassment, they</p> <p>27 were to at</p> <p>28 least inform HR that they had received</p> <p>such a complaint;</p> <p>1 is that true?</p> <p>2 A Yes.</p> <p>3 Q And that was true throughout the time</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>that you 4 worked at Tesla; right? 5 A Yes.</p>	
10.	49:07- 49:23	<p>7 Q In fact, every -- every employer has a duty to 8 make sure that its workers are working in an environment 9 that is harassment-free; right? 10 A Correct. 11 Q And that would include harassment based on sex 12 or race or any of those other prohibited categories; 13 right? 14 A Yes. 15 Q Similarly, every employer is -- has a duty to 16 make sure that once it knows about harassment, that it 17 takes some sort of corrective action to make sure that 18 the harassment doesn't continue; right? 19 A Yes. 20 Q And in California, every employer must take 21 all reasonable steps necessary to prevent discrimination 22 and harassment from occurring; right? A Yes.</p>	
11.	51:02- 51:12	<p>2 Q You would agree that it's never okay to use 3 the n-word in the workplace? 4 A Correct. 5 Q And you'd also agree that it's never okay to 6 make offensive drawings that could be racial in nature; 7 right? 8 A Correct. 9 Q You'd agree that every employer has a duty to 10 provide a workplace where employees are not using the 11 n-word towards other employees? 12 A Yes.</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
12.	51:23- 52:06	<p>23 If -- if a Tesla worker complains about</p> <p>24 harassment to their supervisor, that</p> <p>25 meets their at</p> <p>26 least initial burden under Tesla's policies</p> <p>27 for</p> <p>28 1 reporting harassment; right?</p> <p>29 A Yes.</p> <p>30 Q And under Tesla policies, supervisors</p> <p>31 are</p> <p>32 supposed to report issues relating to</p> <p>33 harassment to</p> <p>34 their managers and to HR?</p> <p>35 A Yes.</p>	
13.	55:23- 56:04	<p>23 Q And in terms of the standards, the</p> <p>24 anti-discrimination, anti-harassment</p> <p>25 policy standards</p> <p>26 that applied to workers at the Tesla</p> <p>27 factory, those</p> <p>28 1 standards applied to both regular full-time</p> <p>29 Tesla</p> <p>30 employees and to the temporary workers</p> <p>31 who were working</p> <p>32 at the plant; right?</p> <p>33 A Yes.</p>	
14.	58:10- 58:15	<p>10 Q Okay. And if someone does complain</p> <p>11 about what</p> <p>12 they consider to be inappropriate</p> <p>13 conduct, and they feel</p> <p>14 threatened, you would agree that as a</p> <p>15 Tesla HR person,</p> <p>16 you would still have a responsibility to</p> <p>17 make sure that</p> <p>18 nothing happened to them further; right?</p> <p>19 A Oh, absolutely</p>	
15.	58:16- 59:5	<p>16 Q And as a Tesla HR person, if someone</p> <p>17 had</p> <p>18 complained about like threatening</p> <p>19 conduct or feeling</p> <p>20 that they were threatened, you would at</p> <p>21 least have to</p> <p>22 make that workplace safe for them from</p> <p>23 that point that</p> <p>24 you find out about it on; right?</p> <p>25 A In the immediate, absolutely. If then it</p> <p>26 was -- the investigation was conducted</p> <p>27 and it, say, only</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>23 involved temporary people that were all under West Valley --</p> <p>24 Valley --</p> <p>25 Q Yeah.</p> <p>1 A -- if West Valley investigated it and came back and said there wasn't actually an issue, I'm going to believe that West Valley did their investigation thoroughly and if there was something to address, I addressed it.</p>	
16.	59:8-21	<p>8 You -- you typically rely on the contract --</p> <p>9 contracting agency to do an investigation into complaints by their employees; is that right?</p> <p>11 A If it is involving other of their employees.</p> <p>12 If it is involving Tesla employees, then I would talk to probably Tesla employees, they would talk to their employees.</p> <p>15 If the stars align and everyone was in the building or in the same side of the country and we would help -- sometimes I had been there when they were interviewing their employee and vice versa. But I wouldn't -- my preference would not be to interview someone else's employee, and especially not without them present.</p>	
17.	59:22-60:10	<p>22 Q In terms of Tesla's duty, though, to all of its employees, it has a -- it has a duty to both its regular employees and the contractors to make sure that all of those people work in a work environment free from harassment or discrimination based on race; right?</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>2 A Correct.</p> <p>3 Q And so if -- if Tesla HR became aware of a</p> <p>4 problem, let's say use of the n-word or use of racial</p> <p>5 drawings, Tesla would still have to make sure that that</p> <p>6 conduct stopped; right?</p> <p>7 A Assuming that an investigation found that that</p> <p>8 conduct did happen?</p> <p>9 Q Right.</p> <p>A Then yes.</p>	
18.	61:10-61:14	<p>10 Q And if someone is complaining about conduct,</p> <p>11 do they have to complain in writing or can they also</p> <p>12 complaint verbally about inappropriate conduct in the</p> <p>13 workplace at Tesla?</p> <p>14 Either.</p>	
19.	64:24-65:04	<p>24 Q Tesla had video cameras throughout the</p> <p>25 facility; is that true?</p> <p>1 A Correct.</p> <p>2 Q And if there was an altercation, would you</p> <p>3 like to see if there was video footage of the incident?</p> <p>4 A Absolutely.</p>	
20.	80:21-82:3	<p>21 Q Okay. Tell me about that. What was the</p> <p>22 situation in which you did some sensitivity training for</p> <p>23 a group relative -- was it relative to the n-word or was</p> <p>24 it --</p> <p>25 A No.</p> <p>1 t was the -- tell me about the</p> <p>2 situation where you did sensitivity training for a</p> <p>3 group.</p> <p>4 A It was an offensive drawing that we were</p> <p>5 unable to determine who did the drawing.</p> <p>And I say</p>	<p>80:12-20</p> <p>Q Okay. And do you remember having a discussion</p> <p>13 among the HR business partners where there was thought</p> <p>14 to be a need by them to maybe conduct some kind of</p> <p>15 sensitivity training to address issues like the n-word</p> <p>16 in the workplace?</p> <p>17 A Specifically resulting from this?</p>

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2			6 "offensive"; it was a sexual drawing that	18 Q No, I'm just talking
3			clearly	about at any time.
4			7 offended folks.	19 A Yes. I know I
5			8 That department was, I believe, over 500	specifically did one with a
6			9 people. So we brought everyone together	20 group that I had.
7			each shift,	
8			10 went over how that was not okay; if we	
9			ever could find	
10			11 out who it was, it wouldn't be tolerated.	
11			12 An investigation couldn't pinpoint who it	
12			was	
13			13 because there wasn't a camera in that	
14			particular area,	
15			14 we addressed the whole entire team, and	
16			then did	
17			15 sensitivity training that covered pretty	
18			much	
19			16 everything.	
20			17 And even if I tell you a joke about the	
21			sky	
22			18 being blue and you think it's funny today	
23			and you don't	
24			19 tomorrow, then I can't tell you that joke	
25			anymore.	
26			20 Q Do you remember what department it	
27			was in?	
28			21 A I think it was stamping.	
			22 Q Okay. In terms of the drawing -- I	
			don't mean	
			23 to offend you or anything, but can you	
			describe the	
			24 sexual drawing that you ended up having	
			to do	
			25 sensitivity training for.	
			1 A If I recall correctly, somebody put	
			boobs on	
			2 like -- you know the male/female symbols	
			on bathrooms?	
			3 Somebody drew boobs.	
21.	84:17- 85:09		17 That sensitivity training came out of the	85:10-20
			fact	
			18 that there were these -- there was a visual	10 Q Okay. Who conducted
			harassment	the -- the annual
			19 in this -- the boobs on the bathroom	11 trainings for the
			door.	management team
			20 Is that what caused the training to come	members?

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>21 about?</p> <p>22 A Yes. Someone was offended by the</p> <p>23 boobs drawn.</p> <p>24 Q Okay. And how was the decision</p> <p>25 made as a</p> <p>26 result of that to do a sensitivity training?</p> <p>27 Why was</p> <p>28 that the outcome?</p> <p>1 make sure that everyone</p> <p>2 understood what the expectation was, and</p> <p>3 if it makes</p> <p>4 someone uncomfortable, it's not okay.</p> <p>5 Q Right. Okay.</p> <p>6 And do you recall any other sensitivity</p> <p>7 trainings that were done relative to either</p> <p>8 race or sex</p> <p>9 issues that you were involved in?</p> <p>10 A Not that I recall. I mean, other than your</p> <p>11 regular annual required of supervisor and</p> <p>12 above.</p>	<p>12 A It would have been Beth</p> <p>13 Davies for the</p> <p>14 training department. I don't</p> <p>15 know if she actually did</p> <p>16 it. And then I know at some</p> <p>17 point I believe it moved to</p> <p>18 online course and question</p> <p>19 and answer. I don't know if</p> <p>20 they still do that or not.</p> <p>21 Anything that was like</p> <p>22 corporate training</p> <p>23 companywide would have</p> <p>24 been through Beth Davies.</p> <p>25 And</p> <p>26 then we supplemented</p> <p>27 where we saw necessary in our</p> <p>28 groups.</p>
22.	85:21- 87:04	<p>21 Q Okay. Now, I'm going to show you</p> <p>22 what has</p> <p>23 been previously marked as Exhibit 37.</p> <p>24 And just so the</p> <p>25 record is clear, Exhibit 37 is a three-page</p> <p>26 document</p> <p>27 Bates-stamped Tesla 35 through 37, and</p> <p>28 it's a complaint</p> <p>1 by Owen Diaz about a racist drawing, or</p> <p>2 what he</p> <p>3 considered to be a racist drawing.</p> <p>4 And I'm wondering if you recall seeing</p> <p>5 this</p> <p>6 email, or the picture that's attached.</p> <p>7 A I don't recall seeing the picture, and I</p> <p>8 don't</p> <p>9 specifically recall seeing it, given the</p> <p>10 time. It very</p> <p>11 well could have been something that I was</p> <p>12 -- "Here's a</p> <p>13 heads-up" kind of thing, and I just don't</p> <p>14 recall.</p> <p>15 Q Okay. Okay.</p> <p>16 Based on your -- you just read the</p> <p>17 complaint</p> <p>18 by Mr. Diaz from January 22nd, 2016.</p>	

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>Based on that</p> <p>11 complaint and in your experience as a professional HR</p> <p>12 person, would that be sufficient to trigger an</p> <p>13 investigation, in your mind, his complaint along with</p> <p>14 the pictures?</p> <p>15 A Yes.</p> <p>16 Q And would -- as a trained investigator, given</p> <p>17 this written information and the confirming picture,</p> <p>18 would you expect there to be an investigation as a</p> <p>19 result of that?</p> <p>20 A Yes.</p> <p>21 Q If you were conducting the investigation,</p> <p>22 would you interview the people that are identified in</p> <p>23 Mr. Diaz's email?</p> <p>24 A Depending on if they were Tesla employees or</p> <p>25 employees of another company, either I would if they</p> <p>1 were Tesla employees, or I would ask that the primary</p> <p>2 employer, for lack of a better way to put it, did. And</p> <p>3 if it was a combination, work together if at all</p> <p>4 possible.</p>	
23.	88:20-89:07	<p>20 So if Michael Wheeler and the Israel -- the</p> <p>21 guy whose name is Israel in this were both Tesla</p> <p>22 employees, those interviews you would expect would be</p> <p>23 done by Tesla HR, and then the interviews -- assuming</p> <p>24 that Ramon Martinez and Owen Diaz are temporary</p> <p>25 employees working through a staffing agency, you would</p> <p>1 interviewed by their</p>	<p>89:8-90:1</p> <p>8 Q I see.</p> <p>9 So in a situation where the staffing agency</p> <p>10 doesn't feel comfortable doing the investigation,</p> <p>you're</p> <p>11 aware of at least one situation where Tesla HR</p> <p>helped</p> <p>12 out in that situation?</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>2 respective contracting agencies; correct?</p> <p>3 A Correct.</p> <p>4 I have had occasion to that whoever was</p> <p>5 on</p> <p>6 site for, say, West Valley wasn't well</p> <p>7 versed or</p> <p>8 comfortable. So if that kind of situation</p> <p>9 came up, I</p> <p>10 would assist, but would make sure that</p> <p>11 they were there.</p>	<p>13 A Yeah, and I can't</p> <p>14 remember the details. They</p> <p>15 had someone new that was</p> <p>16 there. I think it was two</p> <p>17 people really not just -- just</p> <p>18 not getting along, and</p> <p>19 whoever they had on site</p> <p>20 that day was newer and hadn't</p> <p>21 done investigations.</p> <p>22 Q Okay. And --</p> <p>23 A Similar to how when we</p> <p>24 would get new people a</p> <p>25 lot of times, we would have</p> <p>26 them come along and make</p> <p>27 sure the person that you're</p> <p>28 speaking to is comfortable</p> <p>29 with that, because they're</p> <p>30 learning, before just saying,</p> <p>31 "Hey, good luck."</p> <p>32 Q Well, that's good.</p> <p>33 A Yeah. But one way or</p> <p>34 another, make sure it</p> <p>35 gets done.</p>
24.	99:22-100:20	<p>22 You understand that this drawing that's</p> <p>23 on the</p> <p>24 fourth page of Exhibit 128, that that</p> <p>25 drawing is a</p> <p>26 drawing that could be offensive to</p> <p>27 African Americans?</p> <p>28 A Yes.</p> <p>29 Q Right?</p> <p>30 A Yes.</p> <p>31 Q And it's a caricature that historically</p> <p>32 was</p> <p>33 used -- it's been called a "pickaninny."</p> <p>34 Have you heard</p> <p>35 that expression before?</p> <p>36 A Yes.</p> <p>37 Q And it was historically -- this drawing</p> <p>38 with</p> <p>39 the bone in the hair was historically a way</p> <p>40 to put down</p> <p>41 African Americans; right?</p> <p>42 A That's my understanding.</p> <p>43 Q So if you had understood that Mr.</p> <p>44 Martinez had</p>	Calls for speculation.

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
		<p>12 admitted to putting this poster -- to putting this</p> <p>13 drawing up, and also to have threatened Mr. Diaz</p> <p>14 previously, you would expect that Mr. Martinez would be</p> <p>15 fired pursuant to Tesla policy, wouldn't you?</p> <p>16 A Assuming all of that is true --</p> <p>17 Q Yeah.</p> <p>18 A -- I wouldn't presume what nextSource does,</p> <p>19 but I would ask them not to have him return to an</p> <p>20 assignment at Tesla.</p>	
25.	100:22-101:07	<p>22 Now, if you go on to Mr. Diaz's statement:</p> <p>23 ..."and because nothing has been done, it</p> <p>24 seems that his behavior is getting worse."</p> <p>25 That would be a concern to you as a Tesla</p> <p>1 it, if conduct is getting worse?</p> <p>2 A Absolutely.</p> <p>3 Q Where Mr. Diaz then says:</p> <p>4 "As an employee, I'm entitled to a safe</p> <p>5 and harassment-free work environment,"</p> <p>6 that's true; right?</p> <p>7 A Yes.</p>	
26.	104:15-19	<p>15 Q Okay. Now, certainly if Ramon Martinez were</p> <p>16 yelling at him and threatening him, that would violate</p> <p>17 Tesla's policies; right? -- at least the threatening</p> <p>18 part?</p> <p>19 A Yes. Assuming it's Ramon Martinez.</p>	
27.	108:4-109:12	<p>4 Exhibit 35 for the record is a three-page</p> <p>5 document Bates-stamped Tesla 140 to 142. And it appears</p> <p>6 that at least in this situation with respect to Ramon</p> <p>7 Martinez and Owen Diaz, that eventually at least it got</p> <p>8 forwarded to you.</p> <p>9 Do you see that?</p> <p>10 A Yes.</p>	<p>105:22-106:9</p> <p>22 Q Exhibit 155 for the record is a one-page</p> <p>23 document Bates-stamped Tesla 61. We've already seen the</p> <p>24 bottom part of this message. There's just an email at</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
1		11 Q And so at least at some point you	25 the top which is from
2		did get 12 Mr. Diaz's statement about	Tom Kawasaki to Wayne
3		his -- the threat that he	Jackson at
4		13 perceived from Ramon Martinez;	1 nextSource.
5		correct? 14 A Owen's statement?	2 If I understand it
6		15 Q Yeah.	correctly, Mr. Kawasaki,
7		16 A Assuming this whole thread was	3 assuming he's a supervisor
8		actually	in the area where Owen Diaz
9		17 forwarded at the time?	4 worked, it would be his
10		18 Q Yeah.	responsibility to forward any
11		19 A Yes. If it was, I can't say for sure.	5 complaints such as Mr.
12		20 Q Okay. But based on the email chain, I	Diaz's complaint to the
13		mean, 21 it looks like it was forwarded to	6 contracting agency and to
14		you. Do you see that?	Tesla's HR; is that correct?
15		22 A Correct.	7 A If he was a Tesla
16		23 Q Okay.	employee, I would expect
17		24 A Several days later; right? Yeah.	8 that he would go through
18		25 Q Yeah.	Tesla HR to then loop in the
19		1 made on the 17th, and then	9 appropriate either temporary
20		2 forwarded again on the 20th to Wayne	or contract company.
21		Jackson, and then	106:15-22
22		3 it looks like Wayne Jackson forwarded it	15 If Mr. Kawasaki wasn't a
23		to you on that	Tesla employee, then
24		4 same day, on the 20th.	16 sending it to Wayne
25		5 A Terri.	Jackson would have been the
26		6 Q I'm sorry. Terri.	correct
27		7 A Yeah.	17 procedure; is that
28		8 Q Terri forwarded it to you that same day,	correct?
		9 October 20th of 2015; right?	18 A Assuming he worked for
		10 A Yes. And based on that, it would	-- what is it,
		appear that 11 it was all nextSource	19 nextSource that Wayne is?
		employees involved, other than	20 Q Yeah, yeah.
		12 Victor and Ed.	21 A I believe so, but I don't
			know what their
			22 procedures were for their
			supervisors.
			107:5-108:02
			5 Q Exhibit 191 for the
			record is a one-page
			6 document Bates-stamped
			nextSource 101, and it's
			some

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2				7 emails from October 19th
3				and 20th. And I'll just point
4				8 your attention to the top
5				email.
6				9 A Okay.
7				10 Q So where Terri Garrett
8				says here to Wayne
9				11 Jackson that they needed
10				to get the employees'
11				12 statements and other
12				witness statements to Tesla
13				HR
14				13 today, that, again, is in
15				line with the working
16				14 relationship between the
17				different human resource
18				15 departments; is that
19				correct?
20				16 A Correct. And I do recall
21				having to push on
22				17 behalf of Tesla to get
23				things from --
24				18 Q From nextSource?
25				19 A Yes.
26				20 Q Okay. So --
27				21 A Not necessarily related to
28				this one, but just
				22 in general.
				23 Q Okay. So in general,
				you had -- sometimes you
				24 had to push nextSource to
				get you the information you
				25 needed so that you could
				evaluate --
				1 A And go about things the
				way that we had asked
				2 them to go about them.
				109:13-18
				13 Q Okay. And it looks like
				maybe Ed was talking
				14 about getting involved
				here, and Terri Garrett was
				15 asking for your help as to
				whether or not Mr. Romero

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			<p>16 should be involved in the investigation; right?</p> <p>17 A It looks like she wants him not to be</p> <p>18 involved.</p> <p>110:1-6</p> <p>1 Q So the reason you would have canceled Ed --</p> <p>2 Ed's investigation into this is because it appeared to</p> <p>3 you that nextSource should be doing the investigation;</p> <p>4 right?</p> <p>5 A Yeah, I believe she said that two out of the</p> <p>6 three had already been spoken to.</p>
28.	116:22-25	<p>22 Q And the correct response to threatening 23 conduct is to remove that individual from the factory;</p> <p>24 right?</p> <p>25 A Correct.</p>	<p>115:1-21</p> <p>1 Exhibit 65 for the record is a two-page</p> <p>2 document Bates-stamped Tesla 127 and 128, and it's a</p> <p>3 series of emails starting on November 6th of 2015 and --</p> <p>4 at 12:12 a.m., and then going until 7:18 p.m. on that</p> <p>5 same date.</p> <p>6 Ed Romero sends the email down at the bottom</p> <p>7 to Wayne Jackson, copied to Victor Quintero and Jaime</p> <p>8 Salazar.</p> <p>9 Who was Jaime Salazar? Was that another</p> <p>10 supervisor?</p> <p>11 A I remember the name as being part of that</p> <p>12 group. I can't recall if he was a supervisor or not. I</p> <p>13 don't remember his job title.</p> <p>14 Q Okay. And then it appears based on</p>

1	NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
2				15 Mr. Romero's statement
3				that he was able to confirm
4				16 through a witness,
5				Yordano Ramirez, if you
6				look at the
7				17 last page of Exhibit 65,
8				that in fact Mr. Ramirez had
9				18 witnessed Rothaj Foster
10				conduct himself in a
11				threatening
12				19 manner towards Owen
13				Diaz.
14				20 Do you see that?
15				21 A Yes.
16				116:1-21
17				1 On the first page, Ed
18				Romero says that:
19				2 "I had Rothaj Foster
20				removed from the
21				3 Tesla premises last night at
22				10:00 p.m. The
23				4 reason is that he was
24				conducting himself in a
25				5 threatening manner
26				against Owen Diaz."
27				6 Then if you move up a
28				little bit, Victor
				7 Quintero says:
				8 "I agree that the employee
				should not be
				9 allowed to return."
				10 And then after that, it
				was sent to you.
				11 Do you see that?
				12 A Yes.
				13 Q Does it appear to you
				that the correct
				14 procedure, at least with
				respect to Rothaj Foster, was
				15 followed?
				16 A Yes.
				17 Q It appears they
				investigated, they got witness
				18 statements and then made
				a decision that Mr. Foster

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			<p>19 should not be there because he was engaging in 20 threatening conduct; right?</p> <p>21 A Correct.</p>
29.	119:23-120:04	<p>23 Q Okay. But if an allegation of racist -- of a 24 racial term, particularly if it's the n-word, is 25 confirmed, that's the kind of information that 1 supervisors and managers such as Ed Romero and Victor 2 Quintero were trained to at least forward to HR;</p> <p>3 correct?</p> <p>4 A Yes.</p>	
30.	123:09-123:18	<p>9 Q But any worker who is subject -- who is 10 working in the Tesla factory is subject to Tesla 11 policies; correct?</p> <p>12 A Yes.</p> <p>13 Q And -- and any worker who is being harassed or 14 discriminated against, regardless of who they work for, 15 if -- if the harassment or discrimination occurs in the 16 Tesla factory, Tesla has a responsibility to do 17 something about it if it knows about it; right? 18 A Yes.</p>	
31.	133:16-23	<p>16 Q I do understand that. I'm wondering, 17 though -- we've looked at some documents which showed 18 numerous complaints about the n-word, several complaints 19 about the n-word, and I'm wondering if there was any 20 kind of discussion in human resources that there was a 21 need to address the use of that word in particular in 22 the workplace.</p> <p>23 A Not that I recall.</p>	<p>Relevance and unduly prejudicial. The references to "numerous complaints about the n-word" relate to incidents that did not involve Mr. Diaz and about which Mr. Diaz had no personal knowledge. Tesla also refers to and incorporates the arguments in its MIL No. 4.</p> <p>If testimony allowed, counter designate:</p> <p>133:3-15</p> <p>Q In terms of prevention of harassment based on</p>

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
			<p>4 race, are you aware of anything in particular that Tesla</p> <p>5 did other than have its onboard training and the annual</p> <p>6 training you talked about for supervisors?</p> <p>7 Was there anything other than that to prevent</p> <p>8 racial discrimination or harassment in the workplace?</p> <p>9 A As I already mentioned, like when things came</p> <p>10 up, they would be addressed. It just wasn't tolerated.</p> <p>11 But I don't recall anything specific, unless</p> <p>12 it was -- with 5,000 people in a building, if I had an</p> <p>13 issue with a group of 30, I would definitely address it</p> <p>14 with those 30 without giving an idea to the other</p> <p>15 4,700.</p> <p>16 Does that make sense?</p>

McGinn, Kevin 6/17/19, Volume 1

NO.	LINES	DEPOSITION EXCERPT	OBJECTION/ COUNTERDESIGNATION
1.	7:21-7:23	<p>21 MR. ORGAN: Q. Could you please state and</p> <p>22 spell your full name for the record.</p> <p>23 A. Kevin McGinn; K-E-V-I-N, M-C-G-I-N-N.</p>	
2.	9:06-9:12	<p>06 Q. When did you -- well, what's your current</p> <p>07 position for nextSource, Inc.?</p> <p>08 A. I'm the chief financial officer for</p> <p>09 nextSource, Inc.</p> <p>10 Q. And where are you located? Where is your</p> <p>11 office?</p> <p>12 A. Based in Nashville, Tennessee.</p>	

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3.	99:6-9; 99:14- 99:18	<p>06 Q. But in terms of your suppliers, the companies</p> <p>07 like CitiStaff and Chartwell, they're essentially just</p> <p>08 providing employees to Tesla to work in Tesla's</p> <p>09 factory; is that correct?</p> <p>14 THE WITNESS: The supplier will, in the</p> <p>15 course of their employment of the worker, will</p> <p>16 recruit, onboard, and pay the worker. They place that</p> <p>17 worker at the Tesla site, who then works under the</p> <p>18 day-to-day direction and control of Tesla.</p>	<p>Objection: relevance, calls for speculation,</p> <p>If allowed,</p> <p>counterdesignation:</p> <p>97:14-24</p> <p>14 Q. So in other words, Mr. Diaz's relationship,</p> <p>15 as I understand it then, is that of -- he -- Mr. Diaz</p> <p>16 was working for a contractor supplier of nextSource,</p> <p>17 pursuant to nextSource's contract with Tesla; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. In terms of Mr. Diaz's communications</p> <p>21 to Wayne Jackson through this email, was that an</p> <p>22 appropriate way for Mr. Diaz to complain to nextSource</p> <p>23 relative to the race harassment he felt he was being</p> <p>24 exposed to?</p> <p>99:2-4</p> <p>2 THE WITNESS: I can't speculate on the</p> <p>3 specifics between the employer, supplier and employer,</p> <p>4 and their employee. I could not speculate on that.</p>
4.	106:24- 108:08	<p>24 Q. So we were talking about the process that</p> <p>24 Wayne Jackson was supposed to go through.</p> <p>01 One thing that Mr. Jackson was</p>	<p>104:18-105:10</p> <p>18 Q. And who was the program team for nextSource</p> <p>19 working at Tesla in late 2015, early 2016?</p>

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1			
2		supposed to do	20 A. Mr. Wayne Jackson.
3		02 was to act as a liaison between Tesla	21 Q. What was the protocol
4		and CitiStaff;	for Mr. Jackson to
5		03 is that correct?	22 follow, in terms of keeping
6		04 A. Correct.	nextSource informed about
7		05 Q. And another thing that Mr.	23 his investigation of Mr.
8		Jackson was	Diaz's complaint?
9		06 supposed to do was to gather	24 A. So as Mr. Jackson
10		information relative to 07 Mr. Diaz's	would be gathering
11		complaint; correct?	25 statements -- again, fact
12		08 A. When Mr. Jackson was made aware	gathering he might confer
13		of the	
14		09 complaint, he gathered facts.	1 with his supervisor, which
15		10 Q. Okay. And then another thing Mr.	would be logical. He'd
16		Jackson was	2 want to bounce ideas off
17		11 supposed to do was to confer with his	his supervisor and share the
18		boss, Terry	3 facts.
19		12 Garrett, about what steps to take for --	4 Q. Who was Mr. Jackson's
20		relative to	supervisor in late
21		13 nextSource; correct?	5 2015, early 2016?
22		14 A. I would push back a little bit on what	6 A. That would have been
23		to do	Terry Garrett. I
24		15 next for nextSource. This was not	7 believe her title is director,
25		deemed to be a	division director,
26		16 nextSource issue, so what Wayne was	8 something.
27		doing was -- my	9 Q. Director of operations?
28		17 understanding was gathering the facts,	10 A. Yes.
		taking	
		18 statements, and then his disposition	108:19-21
		would be to bring	
		19 that to Tesla on the client side and then	19 Q. And then what was -- is
		the supplier	there anything else
		20 for which the offending person would	20 you remember about the
		have worked.	investigation relative to
		21 Q. In terms of how Mr. Jackson was	21 Mr. Diaz's complaint?
		supposed to	
		22 bring the issues relating to Owen	108:23-25
		Diaz's complaint and	
		23 his investigation to Tesla, was there a	23 THE WITNESS: I mean,
		particular	we're in some detailed
		24 person that he was supposed to bring	24 fact pattern here. My
		that information	understanding is he talked to
		25 to at Tesla?	25 Diaz and --
		01 A. Yes, so concurrent with Mr. Diaz	109:1-11
		advising	
			1 MR. ORGAN: Q. Wayne
			Jackson?

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		<p>02 Mr. Jackson, Wayne Jackson about the claim, the –</p> <p>03 remember I mentioned earlier, there was a series of</p> <p>04 department managers. Well, the affected department</p> <p>05 manager, I believe the name is Victor Quintero,</p> <p>06 brought -- advised Wayne of the claim, complaint, and</p> <p>07 Wayne was fact gathering and would have brought the</p> <p>08 information back to Victor Quintero.</p>	<p>2 A. Yes, sorry.</p> <p>3 Wayne Jackson took a statement from Diaz. I</p> <p>4 want to say talk. He took a statement from Diaz. I</p> <p>5 don't know if it was in person or just, you know, via</p> <p>6 phone or something. And he memorialized essentially</p> <p>7 the same, you know, brushes of the complaint by Diaz.</p> <p>8 So, in other words, you know, filling in details</p> <p>9 around the incident. So I don't know what more</p> <p>10 Mr. Jackson would have done beyond that.</p>

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4 By: /s/ Daniel C. Posner

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